

THE HELP AMERICA VOTE ACT OF 2002

HR 3295

SUMMARY OF THE BILL'S REQUIREMENTS

1. Title I allocates \$325 million to the states, on a formula basis, for improved “election administration.”
2. Title I also allocates \$325 million to the states, on a formula basis, to replace “punch card” voting systems, including Datavote.
3. Title II creates an Election Administration Commission, and several associated bodies, at the federal level.
4. Title II allocates \$3 billion to be distributed to the states, with a 5% match requirement, on a formula basis to be used according to a “State Plan.”
5. Title II also creates several grant programs to provide funding for accessibility (\$100 million over 4 years), technology improvements (\$20 million), equipment testing and technology (\$10 million), protection and advocacy (\$40 million over 4 years), and student mock elections (\$1.2 million over 6 years).
6. Title III establishes requirements for: (a) provisional voting; (b) statewide voter registration database; (c) voting system standards; and (d) identification requirements for voters who register by mail.
7. Title V establishes the Help America Vote College Program (\$5 million).
8. Title VII establishes requirements for overseas and military voting.

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SCHEDULE OF REQUIRED ACTIONS

Date of enactment: **October 29, 2002**

TITLE I – ELECTION ADMINISTRATION; PUNCH CARD REPLACEMENT

1. Section 101: Not later than 45 days after enactment (**December 13, 2002**) the General Services Administrator shall establish a program to make payments, based on a voting age population formula, adjusted to ensure each state a minimum amount, to the State “to improve administration of elections.”
2. Not later than 6 months after enactment (**April 29, 2003**) the Governor, “in consultation and coordination with the SOS”, notifies the administrator that the State wishes to receive and use Section 101 money.
3. Section 102: Not later than 45 days after enactment (**December 13, 2002**) the General Service Administrator shall establish a program to make payments to States of \$4,000 per “qualifying precinct” for costs incurred post January 1, 2001 for replacement of “punch card” (includes Datavote) voting systems.
4. “Punch card voting systems must be replaced by the **November 2004** election. If a State certifies to the Administrator by **January 1, 2004** that it won’t, for “good cause”, meet this deadline, it can be extended until **January 1, 2006**. Monies not used are refunded to the Administrator.
5. To receive Section 102 money, a State must provide notice to the Administrator, not later than 6 months following enactment (**April 29, 2003**), on a form provided by the Administrator that contains certifications that the state will use the money for punch card replacement, complies with all federal laws, and that the replacement voting systems will meet the requirements of Section 301 (languages, accessibility, paper trail, etc.) either through the voting equipment itself or via an education program.
6. To receive Title I monies, the State must establish an “Election Fund” in the state treasury.

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TITLE II – ELECTION ASSISTANCE COMMISSION

1. Election Assistance Commission – 4 members appointed not more than 120 days from enactment (**February 27, 2003**). EAC authorized to have Executive Director, General Counsel, and other staff and functions as national clearinghouse for voluntary standards, studies, hearings, reports, etc. No authority to issue “any rule, promulgate any regulation, or take any other action which imposes any requirement on a State ...” EAC provides for the “testing, certification, decertification” of voting equipment unless a state does it itself.
2. EAC Standards Board – 110 members. Reviews voluntary voting standards. Not later than 90 days after enactment (**January 28, 2003**) the SOS must notify FEC of: (a) State election official to serve on Board; (b) Local election official to serve on Board (selected by local election officials in a process supervised by SOS).
3. EAC Board of Advisors – 37 members.
4. EAC Technical Guidelines Development Committee – Develop voluntary voting system guidelines, not more than 9 months after all its members have been appointed. EAC and Standards Board and Board of Advisors must accept. No direct appointments for State or locals.

TITLE II – REQUIREMENTS PAYMENTS; STATE PLAN

1. Not later than 6 months after appointment of the EAC (EAC must be appointed no more than 120 days after enactment, so this requirement is not later than 10 months, or **August 29, 2003**), and annually thereafter, the EAC shall make requirements payments to the State, based on voting age population (11.7%).
2. In order to receive money, State must file a certification with the EAC, 30 or 45 days after publication of the State Plan in the Federal Register, that the State is in compliance with applicable laws and requirements, including a complaint procedure (Section 402), has provided a 5% match to the federal funds, and has established an Election Fund. Methods of compliance are “left to the discretion of the State.”
3. Before filing a State Plan, the State must make a preliminary version of the plan publicly available at least 30 days, take comments, and incorporate comments into the final draft. There appears to be no deadline for submittal of the State Plan, and each state is guaranteed a sum of money as calculated by the formula. The State Plan must be developed by the SOS with a committee of “appropriate individuals” appointed by the SOS.

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4. Requirements payments must be spent on Title III requirements, or the State must certify that it has implemented Title III, in which case the money may be spent for “other activities to improve the administration of elections...”, including voting equipment obtained after November 2000.
5. Not later than 6 months from the end of each Fiscal year (Federal FY begins in October, so the first report for FY 03 would be **April 2004**) the State must submit a report on activities conducted with the funds.

TITLE II – GRANTS

1. Access for Persons with Disabilities – Not later than 6 months from enactment (**April 29, 2003**) the Secretary of Health and Human Services shall make payments (not formula based) to State or local applicants for polling place access, education, but (it does not appear) voting equipment.
2. Research on Voting Technology Improvements – Based on list of potential topics developed by NIST, any “entity” may apply, but no application deadline or timetable is specified.
3. Pilot Programs – Same as above
4. Protection and Advocacy – Each State Protection and Advocacy program is allocated between \$35,000 and \$70,000. Funds are for “training and technical assistance” for persons with disabilities.
5. Mock Election – Grants are to the National Student-Parent Mock Election national non-profit organization.

TITLE II – VOLUNTARY GUIDANCE

1. The EAC shall adopt Voting System Standards by **January 1, 2004**. Section 301.
2. The EAC shall adopt provisional voting standards by **October 1, 2003**. Section 302.
3. The EAC shall make recommendations with respect to the statewide database by **October 1, 2003**.

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TITLE III – ELECTION ADMINISTRATION REQUIREMENTS

1. Voting System Standards – Compliance required by **January 1, 2006** and shall: (a) permit voter to verify ballot and correct it if wrong, and notify the voter re overvotes (can use education program if paper or punch card ballot); (b) provide permanent paper record; (c) have accessible voting, which is at least one DRE per polling place; (d) meet federal language requirements; (e) meet “error rate” standards (attributable to machine, not the voter) in Section 3.2.1 of voting system standards in effect October 29, 2002; (f) state has uniform definition of what constitutes a vote.
2. Provisional Voting – Compliance required by **January 1, 2004**; appears to mostly be current law in California, except for the addition of a requirement for a “free access system” (phone or Internet) for voter to see if his or her vote was counted.
3. Voting Information – Compliance by **January 1, 2004**; Requires posting at polling place of information, with new requirements for information re mail-in registrants and first-time voters and prohibitions versus fraud or misrepresentation.
4. Voting After the Polls Close – Compliance by **January 1, 2004**; requires that if a court orders a polling place open late all ballots shall be provisional.

TITLE III – COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST AND REQUIREMENTS

1. State shall implement by **January 1, 2004** (can apply for “good cause” waiver for **January 1, 2006**) a “single, uniform, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level” that includes a unique identifier and serves as “the single system for storing and managing the official list of registered voters” and is coordinated with other state agency databases, and provides “immediate electronic access” to any local (county and city) election official. Voter registration information obtained by local election officials shall be entered into the database “on an expedited basis at the time the information is provided to the local official.” “The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State.” State or local officials shall perform list maintenance. The State must coordinate with Department of Corrections for felony convictions, and Department of Health for death records.

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2. VRC's may not be accepted or processed without a driver's license number or the last 4 digits of the applicant's social security number. If the applicant has neither, the State must assign a unique identifier.
3. State must verify DL or SSN numbers; DMV must cooperate.
4. Mail registrants need to be checked for voter history (see below)

TITLE III – VOTERS WHO REGISTER BY MAIL

1. Compliance for election officials is required by **January 1, 2004**, but for individual voters by **January 1, 2003**. If a voter registers by mail and has not voted in the state (CVRDB search required?); (a) need photo ID to vote in person, or utility bill etc; (b) to vote by mail include copy of photo ID. If no ID, vote provisional. If, when register to vote, provides photo ID, copy of utility bill etc. DL number or last four digits of SSN, and these must be verified.
2. Voter Registration Form – By **January 1, 2003** add check off boxes to VRC re; (a) “Are you a US citizen?” (b) Will you be 18?; (c) New requirements re mail registration. Incomplete forms = RoV notify voter to complete.
3. State gets to decide how to comply with Title III.

TITLE IV – COMPLAINT PROCEDURES

1. Not later than **January 1, 2004**, each “nonparticipating” (those who don't apply for money) State must either have the required complaint procedure or tell the feds how it will meet this requirement. Any written, sworn, notarized complaint by any person concerning a violation of Title III may generate a hearing on the record, and the State must determine, within 90 days, the validity of the complaint, and, if it is valid, an appropriate remedy. If the complaint is rejected, the complainant may

TITLE V – HELP AMERICA VOTE COLLEGE PROGRAM

1. Not more than 1 year after EAC is appointed it shall develop a Help America Vote Program, in consultation with SOS, through a Help America Vote Foundation.

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TITLE VII – MILITARY AND OVERSEAS VOTERS

1. Provides for requirements on DOD to facilitate voting.
2. For elections **after January 1, 2004**, each State shall designate a single office to provide information regarding overseas voting, including receiving valid VRC's absentee ballot applications, and absentee ballots.
3. Not more than **90 days after each federal general election**, each State and local jurisdiction must report, on a form developed by the EAC, on the number of ballots sent to and received by overseas voters.
4. For elections after **January 1, 2004**, UOCAVA absentee applications are valid "through the next 2 regularly scheduled general elections for federal office."
5. For elections after **January 1, 2004**, the State must provide statistical reports and analysis of overseas voting.
6. For elections after **January 1, 2004**, the State must use the "affirmation" or "standard oath" on AV documents for overseas citizens.
7. For elections after **January 1, 2004**, the State may not refuse to accept AV applications received before the date the state sets for beginning the application process.

TITLE VIII – TRANSITION

1. Effective on the appointment of the EAC, all powers and duties of the Federal Election Commission are transferred to the EAC.

TITLE IX – MISCELLANEOUS PROVISIONS

1. States (actually any recipient of grant or payment) must keep records, and whoever gives the grant or payment may audit these records, and anyone who receives money shall be audited at least once by the Comptroller General. For any money given by the Administrator (Title I), the EAC shall be deemed to be the auditing agency.
2. Appears to authorize California's Alternate Residency Confirmation procedure (does it override the stipulation to never cancel inactive's?).

FUNDS AVAILABLE

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